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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,002	01/13/2004	Lily Marie Amaru	20578.25024	3299
26781	7590	08/05/2004	EXAMINER	
BROUSE MCDOWELL INTELLECTUAL PROPERTY GROUP 500 FIRST NATIONAL TOWER AKRON, OH 44308			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/757,002

Applicant(s)

AMARU, LILY MARIE

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/30/04, 6/1/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-10, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Broders (U. S. Patent No. 4,502,232).

Broders teaches an apparatus, comprising: a body (10) having at least a first non-linear edge (22), said first non-linear edge adapted to be used to make a portion of an associated fabric pattern, wherein the fabric portion has an edge such that the shape of the fabric portion edge resembles said first non-linear edge (Figs. 1 and 6).

Broders teaches the apparatus wherein said body further comprises a second non-linear edge (24).

Broders teaches the apparatus wherein said second non-linear edge is adapted to be used to make a portion of the fabric pattern, wherein the shape of the fabric portion edge resembles said second non-linear edge (Figs. 1 and 6).

Broders teaches the apparatus wherein the shape of said first non-linear edge is different from the shape of said second non-linear edge (The pattern on edge 22 is opposite or shifted from the pattern on edge 24, making them different).

Broders teaches the apparatus wherein said first non-linear edge is a wavy pattern (Fig. 2).

Broders teaches the apparatus wherein said second non-linear edge is a wavy pattern (Fig. 2).

Broders teaches the apparatus wherein said first non-linear edge is adapted to be used to make associated fabric blocks for the fabric pattern (Col 2, lines 9-50).

Broders teaches the apparatus wherein said second non-linear edge is adapted to be used to create an associated outside edge of the fabric pattern (Col 2, lines 9-50).

Broders teaches a method for making a fabric pattern, comprising the steps of: providing a pattern measuring device comprising a body having a first non-linear edge; providing pieces of fabric, each of said pieces having an edge; cutting at least two pieces of said fabric to a predetermined width; overlapping the edges of the two pieces of fabric a predetermined amount; positioning said first non-linear edge of said pattern measuring device over said fabric; cutting said fabric along said first non-linear edge such that said fabric edges have a non-linear pattern; mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric; sewing said non-linear edges together; repeating steps to form a block of fabric; forming a plurality of fabric blocks; sewing said fabric blocks together to create a fabric pattern having a non-linear pattern (Col 2, lines 9-50 and Col 2, line 56-Col 4, line 5).

Broders teaches the method wherein the step of mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric further comprises the step of mating a crest of said first piece of fabric with a trough of said second piece of fabric (Col 2, line 56-Col 4, line 5).

Regarding the use of the apparatus to be for a fabric pattern which is for a quilt, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to

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be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 11, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broders in view of Reber et al. (U. S. Patent No. 5,557,996).

Broders discloses the apparatus and method as described above in paragraph 2.

Broders does not disclose an apparatus and method comprising demarcations for measuring lengths; comprising as first aligning gauge line; wherein the fabric pattern is for a quilt; wherein the fabric pattern is for a placemat; wherein the fabric pattern is for a pillow.

Reber et al. discloses an apparatus and method comprising demarcations for measuring lengths (Col 3, lines 24-26); comprising as first aligning gauge line (Fig. 1, gauge line may be any of the lines of the grid which are used for aligning Col 2, lines 21-35); wherein the fabric pattern is for a quilt (Col 2, lines 1-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Broders to have demarcations for measuring lengths and an aligning gauge line, as taught by Reber et al., so that a user could measure the exact length of pattern being used and so that the user could align the apparatus with the fabric to be cut properly.

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Regarding claims 16 and 17: Broders and Reber et al. disclose an apparatus and method for making a fabric pattern wherein the fabric pattern is for carpets and quilts. It would have been obvious to one of ordinary skill at the time the invention was made to use the apparatus and method of Broders and Reber et al. for a placemat and a pillow since these are common articles for which fabric patterns are used and since Reber et al. discloses that the apparatus and method be used for fabric patterns similar to quilts (Reber et al., Col 2, lines 1-16, specifically stating "quilts or the like.").

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose apparatuses for forming patterns Hess (U. S. Patent No. 6,321,458), Nelson et al. (U. S. Patent No. 6,112,425), Hoag (U. S. Patent No. 5,943,974), Russell (U. S. Patent No. 5,926,966), Blevins (U. S. Patent No. 5,813,127), Smith (U. S. Patent No. 5,319,859), Grimm (U. S. Patent No. 4,642,896), Small et al. (U. S. Patent No. 3,673,052), Guerrero (U. S. Patent No. 3,071,171), and Picken (U. S. Patent Des. 163,411).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
July 9, 2004



Diego Gutierrez  
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